

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

FIVE STAR BANK,

Plaintiff,

v.

KATHERINE MOTT, ROBERT HARRIS;
KRM EVENTS, LLC; KATHERINE'S ON
MONROE, LLC; THE DIVINITY ESTATE
AND CHAPEL, LLC; KNC ELEGANCE,
LLC d/b/a THE WINTERGARDEN BY
MONROES; 11 WEXFORD GLEN, LLC;
RCC MONROES LLC; NAF REMODELING
LLC; MONROES AT RIDGEMONT LLC;
CRESCENT BEACH AT THE LAKE LLC;
and MOTT MANAGEMENT LLC;

Defendants.

CASE NO. 6:24-cv-6153-FPG

CIVIL ACTION

**MOTION FOR LIMITED
EXPEDITED DISCOVERY**

Plaintiff Five Star Bank (“Plaintiff” or “Five Star”) hereby moves pursuant to Rule 7 of the Local Rules of Civil Procedure for the Western District of New York and Rule 26(d) of the Federal Rules of Civil Procedure, for leave to serve limited expedited discovery seeking information directly relevant to Plaintiff’s claims and its motion for the appointment of a receiver to manage the operations and financial affairs of the entities named as Defendants in this litigation.

Limited expedited discovery is necessary due to the continued failure of Defendants to voluntarily provide information to confirm to where the \$18.9 million proceeds from the check-kiting scheme were diverted and the current uses of those funds. Account information for the accounts to which funds were directed is necessary for Plaintiff to complete a full accounting and to prevent Defendants from concealing, dissipating, or diverting assets or revenues. Defendants’ conduct and present refusal to acknowledge responsibility for their liabilities further support expediting the Court’s consideration of the underlying motion.

The non-party subpoenas Plaintiff seeks leave to serve are limited to six (6) in number, narrowly-tailored in scope, and will not create a substantial burden for the recipient financial institutions. Attached as Exhibit A to the accompanying Declaration of David G. Burch, Jr., Esq. are copies of the proposed subpoenas.

In support of this application, Plaintiff submits the accompanying Declaration of David G. Burch, Jr. dated April 2, 2024 with annexed Exhibit A and Memorandum of Law in Support dated April 3, 2024.

Dated: April 3, 2024

BARCLAY DAMON LLP

By: /s/ David G. Burch, Jr.
David G. Burch, Jr.
Benjamin Zakarin
Sarah A. O'Brien

Attorneys for Plaintiffs
Office and Post Office Address
125 East Jefferson Street
Syracuse, New York 13202-2078
Telephone (315) 425-2716
dburch@barclaydamon.com
bzakarin@barclaydamon.com
sobrien@barclaydamon.com

CERTIFICATE OF SERVICE

I hereby certify that, on April 3, 2024, I served the foregoing document on all counsel of record via the Court's ECF system.

/s/ David Burch, Jr.
David G. Burch, Jr.